

AN ORDINANCE

NO. _____

AN ORDINANCE To Amend The Code Of The Township Of Lower Merion, Chapter 155, Entitled Zoning, Article II, Definitions, § 155-2.1, Definitions, To Create A Definition For Federal Firearms Licensee (FFL); Article V, Uses, To Amend Table 5.1, Uses, To Permit FFL As A Conditional Use In The TC2, LI, CAD-RCA, CAD-BCR, And RHR Districts; Article V, Uses, To Amend Table 5.1, Uses, To Update The Table's Notes; Article V, Uses, To Amend Table 5.3, Use Regulations, To Incorporate The Conditional Use Standards For FFL Established By This Ordinance; And Amend Article X, Supplemental Use Regulations And Nonconformities, To Create A New § 155-10.15, Federal Firearms Licensee (FFL) And Therein Provide For The Regulation Thereof.

The Board of Commissioners of the Township of Lower Merion hereby ordains:

Section 1. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article II, Definition, § 155-2.1, Definitions, is hereby amended to include the following definition:

FEDERAL FIREARMS LICENSEE (FFL)

A person of at least twenty-one (21) years of age or a legal entity, duly licensed by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, engaged in the business of manufacturing, selling or dealing, shipping, receiving, or importing federally regulated firearms, ammunition, or destructive devices.

Section 2. Table 5.1, Uses, contained within the Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article V, Uses, is hereby amended as follows to include the following addition in order to permit Federal Firearms Licensee (FFL) as a conditional use in the following districts – TC2 – Town Center, LI – Light Industrial, RHR – Rock Hill Road District, and CAD – RCA City Avenue District – Regional Center Area:

USES	LDR	MDR	VC	TC	I	LI	MC	BMMD	RHR	BMV	CAD
RESIDENTIAL											
Single-family Housing (detached)	P	P			(3)			P ⁽⁶⁾		R ⁽⁷⁾	
Duplex / Twin		P			(3)			P ⁽⁶⁾		R ⁽⁷⁾	
Quad		P ⁽¹⁾			(3)						
Rowhouse		P ⁽¹⁾			(3)			P ⁽⁶⁾		P/R	R
Multi-family (small)		P ⁽¹⁾	R	R	(3)				R	P/R	R
Multi-family (large)		P ⁽²⁾	R	R	(3)	R			R	P/R	R
Live-Work		R ⁽¹⁾	P	P					P	R ⁽⁷⁾	R
Alternative Housing for the Elderly	S	S			(3)						

Shared Residence for the Elderly or the Disabled	R	R	R	R	(3)	R		R		R ⁽⁷⁾	
Community Residential Facility	R	R	P	P	P	P	P	P	P	P	
Adult Daycare		C ⁽²⁾							P		P ⁽⁸⁾
Long-Term Care Facility		S ⁽¹⁾			(3)				P	R ⁽⁷⁾	
Trailer Camp & Mobile Homes						P					
LODGING											
Bed & Breakfast			P	P						P ⁽⁷⁾	P
Hotel			P	P		P		R ⁽⁵⁾	P	P ⁽⁷⁾	P
Student Housing	S	S	R	R		R				S	
COMMERCIAL											
Adult Entertainment						R					
Auto Related Services			R	R					R		
Food & Beverage			R	R		R			R	R ⁽⁷⁾	R
Federal Firearms Licensee				C ⁽¹¹⁾		C			C		C ⁽⁹⁾
Health and Medical						P	P/R	R ⁽⁴⁾	P		P
Daycare			P	P	(3)	P			P	P	P
Office			R	R		P		R ⁽⁴⁾	P	C/R ⁽⁷⁾	P
Open Air Retail			R	R		R				P ⁽⁷⁾	
Place of Assembly			P	P		P			P	P ⁽⁷⁾	P ⁽⁸⁾
Retail			P	P		P		P ⁽⁴⁾	P	P ⁽⁷⁾	R
Specialized Retail			P/R	P/R			R	P/R ⁽⁴⁾	R	P/R ⁽⁷⁾	R ⁽⁹⁾
Mixed-Use			R	R		R			R	R	R
INSTITUTIONAL											
Cemetery (nature preserve)					(3)						
Environmental (nature preserve)					(3)						
Recreation Establishment			P	P	(3)				P	P ⁽⁴⁾	
Religious	S	S	P	P	(3)					S	
Institutional Residential	S	S			(3)						
College / University					(3)					C ⁽¹⁰⁾	
Private School					(3)					C ⁽¹⁰⁾	
Public School	R	R	P	P	(3)	P	R	R	R	R	
Continuing Care Facility (CCF)					(3)						
Hospital							P	P			
CIVIL SUPPORT											
Infrastructure (Com.Power.Water)	P	P	P	P		P					
Municipal Service	P/C	P/C	P/C	P/C		P			P	P/C	P/R ⁽⁸⁾
Public Parking			P	P		P		P	P	P	P
Solid Waste						P					
Transit	P	P	P	P		P				P ⁽⁷⁾	P
INDUSTRIAL											
General Industrial						R					
Storage & Distribution						R					

AGRICULTURE											
General Agriculture	P					P					
Tilling of Soil	P	P	P	P	(3)	P	P	P	P	P	P

1. MDR 2 & 3 only
2. MDR3 only
3. See "Table 5.2 Uses for Institutions"
4. BMMD 3 only
5. BMMD 1 only
6. BMMD 2,3
7. BMV 1,3,4
8. CAD-BV only
9. CAD-RCA only
10. BMV2 only
11. TC2 only

P: Permitted Use
R: Regulated Use
C: Conditional Use
S: Special Exception

Section 3. Table 5.1, Uses, contained within the Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article V, Uses, is hereby amended as follows to update the "NOTES" section at the conclusion of the table:

NOTES:

- (1) MDR 2 and 3 only
- (2) MDR 3 only
- (3) See Table 5.2, Uses for Institutions.
- (4) BMMD 3 only
- (5) BMMD 1 only
- (6) BMMD 2,3
- (7) BMV 1,3,4
- (8) CAD-BV only
- (9) CAD-RCA only
- (10) BMV2 only
- (11) TC2 only

Section 4. Table 5.3, Use Regulations, contained within the Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article V, Uses, is hereby amended as follows in order to incorporate the conditional use standards for FFLs established pursuant to Section 5, below, in the following districts – TC2, Town Center, LI – Light Industrial, RHR – Rock Hill Road District CAD – RCA City Avenue District – Regional Center Area, and CAD – BCR City Avenue District – Bala Cynwyd Retail Districts:

TABLE 5.3 USE REGULATIONS (CONTINUED)

USES	USE PERMITTED		VC	TC1	TC2
	VC	TC			
COMMERCIAL (CONT'D)					
Food & Beverage	R	R	Food and beverage uses shall be permitted subject to the following provisions: (1) No on-street parking shall be counted as required parking for food and servicetake- out restaurants.		
<u>Federal Firearms Licensee</u>		<u>C</u>			TC2 only. <u>Federal Firearms Licensee, subject to the regulations of § 155-10.15 Federal firearms licensee (FFL).</u>
Office	R	R	(1) Shall be subject to Table 3.5.2-F Storefront requirements. (2) Ground floor office is subject to a 100 ft. separation in TC1 and VC.		
Open Air Retail	R	R	Farmer’s Markets are subject to the following regulations: (1) Operation of the Farmers’ Market shall be limited as follows: · A maximum of two days per week for six hours each day. · Hours of operation are between 10:00 a.m. and 7:00 p.m., including set-up and clean-up. (2) If the lot is used for any other purpose, the Farmers’ Market use may only occur if the applicant can demonstrate that there is sufficient parking for the Farmers’ Market use and any other use that will operate at the same time as the Farmers’ Market. (3) Parking. A minimum of 20 off-street parking spaces for customers shall be available on the lot, in addition to the parking spaces required as per “Article 8: Parking Standards”. (4) Off-site parking. If adequate on-site parking is not available, the parking requirements may be met by designating parking spaces in a off-street public parking lot located within 1,000 feet of the proposed market. (5) Loudspeakers, live music and sound enhancement devices are prohibited, unless approved as a Conditional Use.		
Specialized Retail	R	R	Animal hospital is subject to the following regulations: (1) Shall front on a primary arterial. (2) The applicant shall present credible evidence and shall prove to the satisfaction of the Zoning Officer, that the soundproofing of the facility is adequate to prevent disturbance of neighboring properties.		
		S	Commercial Garage shall only be authorized as a Special Exception, subject to the following regulations: (1) Shall front on a primary arterial.		
	R	R	Medical marijuanadispensary,subject totheregulations of“Section 155-10.5 Medical Marijuana Dispensary”.		

TABLE 5.3 USE REGULATIONS (CONTINUED)

USES	USE PERMITTED	LI
RESIDENTIAL		
Multi-Family (large)	R	Multi-family (large) shall be permitted subject to the following regulations: (1) Active ground floor commercial use is required. The floor area devoted to the ground floor commercial use shall be a minimum depth of 40 feet. (2) No single-use residential building shall be permitted. (3) The ground floor of the front facade shall comply with “Section 155-3.9.4 Storefronts”.
Shared Residence for the Elderly or the Disabled	R	Shall be in compliance with “Section 155-10.3 Shared Residences for the Elderly or the Disabled.”
HOTEL / LODGING		
Student Housing	R	Student homes shall only be permitted subject to the following regulations: (1) A maximum of three students per dwelling is permitted. (2) A maximum of one student per bedroom in any dwelling unit. (3) A maximum of 40% of the dwelling units in a multi-family building may be occupied as student home units, up to a maximum of 20 units. (4) Minimum distance requirement from another approved student housing shall be 1,000 ft.
COMMERCIAL		
Adult Entertainment	R	Adult Entertainment shall be subject to the following regulations: (1) Not permitted within 1,000 feet of a public or private school. (2) Not permitted within 3,000 feet of another adult entertainment establishment.
Open Air Retail	R	Farmers Markets are subject to the following regulations: (1) Operation of the Farmers Market shall be limited as follows: (a) Hours of operation are between 10:00 a.m. and 7:00 p.m., including set-up and clean-up. (2) If the lot is used for any other purpose, the Farmers Market use may only occur if the applicant can demonstrate that there is sufficient parking for the Farmers Market use and any other use that will operate at the same time as the Farmers Market. (3) Parking. A minimum of 20 off-street parking spaces for customers shall be available on the lot, in addition to the parking spaces required as per “Article 8: Parking Standards”. (4) Off-site parking. If adequate on-site parking is not available, the parking requirements may be met by designating parking spaces in a off-street public parking lot located within 1,000 feet of the proposed market. (5) Loudspeakers, live music and sound enhancement devices are prohibited, unless approved as a Conditional Use.
Food & Beverage	R	Food and beverage uses shall be permitted subject to the following regulations: (1) No on-street parking shall be utilized for food and service take-out restaurants.
<u>Federal Firearms Licensee</u>	<u>C</u>	<u>Federal Firearms Licensee, subject to the regulations of § 155-10.15 Federal firearms licensee (FFL).</u>
Mixed-Use	R	Mixed-Use shall be permitted subject to the following regulations: (1) Active ground floor commercial use is required. The depth of the space devoted to the ground floor commercial use shall be a minimum depth of 40 feet. (2) No single-use residential building shall be permitted. (3) The ground floor of the primary front facade shall comply with “Section

INDUSTRIAL		
General Industrial	R/C	<ol style="list-style-type: none"> (1) Medical marijuana grower/processor, shall be permitted by conditional use subject to the regulations of “Section 155-10.6 Medical Marijuana Processing”. (2) All industrial uses shall be screened with a 20-foot landscape buffer when abutting any non-industrial use adjacent to or within LI, according to “Section 155-3.10 Landscape Standards”.
Storage & Distribution	R	<p>Storage & Distribution shall be permitted subject to the following regulations:</p> <ol style="list-style-type: none"> (1) Ground floor commercial use is required. (2) 80% of the ground floor of the front facade shall be devoted to storefront.

TABLE 5.3 USE REGULATIONS (CONTINUED)

USES	USE PERMITTED	RHR
RESIDENTIAL		
Multi-Family (small)	R	<p>Multi-family (small) shall be permitted subject to the following restrictions:</p> <ol style="list-style-type: none"> (1) No single-use residential building shall be permitted. (2) Active ground floor commercial use required. The floor area devoted to the ground floor commercial use shall be a minimum depth of 40 feet. (3) The ground floor of the primary front facade shall comply with “Section 155-3.9.4 Storefronts”.
Multi-Family (large)	R	<p>Multi-family (large) shall be permitted subject to the following restrictions:</p> <ol style="list-style-type: none"> (1) No single-use residential building shall be permitted. (2) Active ground floor commercial use required. The floor area devoted to the ground floor commercial use shall be a minimum depth of 40 feet. (3) The ground floor of the primary front facade shall comply with “Section 155-3.9.4 Storefronts”.
COMMERCIAL		
Auto Related Services	R	<p>Auto-Repair Services are subject to the following regulations:</p> <ol style="list-style-type: none"> (1) Repairs shall be conducted wholly within the building. (2) Where repairs occur in an accessory building, the building shall be located at least 40 feet from the rear and side property line. <p>New and used car lots may be authorized, subject to the following regulations:</p> <ol style="list-style-type: none"> (1) The lot shall be an integral part of the lot on which a motor vehicle sales agency building containing a showroom or showrooms is located. <p>Gasoline stations are subject to the following regulations:</p> <ol style="list-style-type: none"> (1) Minimum 200 feet distance requirement from a gasoline dispensing pump to a building with residential dwelling units. (2) A gasoline dispensing station shall not be deemed nonconforming through the subsequent erection of a residential unit.
Specialized Retail	R	Medical marijuana dispensary, subject to the regulations of “Section 155-10.5 Medical Marijuana Dispensary”.
Food & Beverage	R	Excludes a drive-through facility.
<u>Federal Firearms Licensee</u>	<u>C</u>	<u>Federal Firearms Licensee, subject to the regulations of § 155-10.15 Federal firearms licensee (FFL).</u>
Mixed-Use	R	<p>Mixed-Use shall be permitted subject to the following regulations:</p> <ol style="list-style-type: none"> (1) Active ground floor commercial use is required. The depth of the space devoted to the ground floor commercial use shall be a minimum depth of 40 feet. (2) No single-use residential building shall be permitted. (3) The ground floor of the primary front facade shall comply with “Section 155-3.9.4 Storefronts”.

INSTITUTIONAL		
Public Schools	R	Public schools shall be developed according to the requirements of the Institutional Educational District, Table 4.4.3.B.

TABLE 5.3 USE REGULATIONS (CONTINUED)

USES	USE PERMIT			CAD-RCA	CAD-BCR	CAD-BV
	CAD-RCA	CAD-BCR	CAD-BV			
COMMERCIAL						
Food & Beverage	R	R		Excluding a drive-through facility.		
<u>Federal Firearms Licensee</u>	C			<u>Federal Firearms Licensee, subject to the regulations of § 155-10.15 Federal firearms licensee (FFL).</u>		
Retail	R	R	R	All retail uses shall exclude a drive-through facility.		
				Indoor Family Entertainment Center, up to a maximum of 35,000 square feet, subject to the following separation requirements: (1) Facilities up to 15,000 square feet in size shall be located a minimum of 400 feet from a lot in a residential zoning district and from a lot with an existing residential use as of the effective date of this article. This distance shall be increased to 800 feet where alcoholic beverages are served on the premises. (2) Facilities larger than 15,000 square feet, but no greater than the maximum 35,000 square feet, shall be located a minimum of 800 feet from a lot in a residential zoning district and from a lot with an existing residential use as of the effective date of this article. (3) No entertainment use shall be permitted if any other use is located within 500 feet, measured by the shortest distance between the lot on which the proposed use will be located and the lot or lots which contain the existing use.		
				Athletic fields, skating rinks, and bowling alleys, subject to the following separation requirements: (1) The above-mentioned indoor recreational facilities shall be located a minimum of 400 feet from a lot in a residential zoning district and from a lot with an existing residential use as of the effective date of this article. This distance shall be increased to 800 feet where alcoholic beverages are served on the premises. (2) No entertainment use shall be permitted within 500 feet, measured by the shortest distance between the lot on which the proposed use will be located and the lot or lots which contain the existing use.		
Specialized Retail	R			Medical marijuana dispensary, subject to the regulations in “Section 155-10.5 Medical Marijuana Dispensary”.		

CIVIL SUPPORT						
Municipal Service	P	P	R			Any municipal parking structure shall be exclusively limited to passenger vehicles or vehicles having a gross vehicle weight rating of no greater than 7,500 pounds.

Section 5. The Code of the Township of Lower Merion, Chapter 155, entitled Zoning, Article X, Supplemental Use Regulations and Nonconformities, is hereby amended to create a new § 155-10.15, Federal Firearm Licensee (FFL), as follows:

§ 155-10.15 Federal firearms licensee (FFL).

- A. Statement of legislative findings and intent. FFLs present unique zoning challenges for a multitude of reasons including but not limited to the dichotomy of firearms being both constitutionally and statutory protected while also being classified by Pennsylvania's penal code as dangerous weapons (e.g., 18 Pa.C.S. § 913). Firearms, ammunitions, and explosive devices, which are all the products or wares of FFLs, are also the target of thefts and straw purchases, and used as the instrumentality of crimes. Consequently, the business of manufacturing, selling or dealing, shipping, receiving, or importing firearms, ammunition, and/or destructive devices is always incompatible with the residential use of properties and surrounding residential areas, as well as pedestrian-oriented retail districts, as identified in the Township's Comprehensive Plan. This type of business, however, may be compatible with other zoning districts if certain standards are met which will harmonize this particular use with the uses permitted within those other districts. In creating these standards, the Board of Commissioners looked to (1) current federal and state regulations related to firearms, ammunitions, and explosive devices; (2) industry-specific recommended best practices for FFLs, and (3) standards applied at the federal, state, and local levels, including but not limited to zoning regulations, to other uses, such as pharmaceutical-providers and banks, which are analogous to FFLs because they involve the transacting of other similarly challenging commodities.
- B. Prohibited as a home occupation. No FFL shall operate as a home occupation.
- C. Conditional use standards.
 - (1) No FFL shall be permitted to operate in or on the grounds of, or within 1,000 feet of the grounds of, a public, parochial or private school, unless the FFL can demonstrate compliance with 18 U.S.C. § 922(q), as amended.
 - (2) An FFL shall produce and keep on file with the Township a current copy of the applicable license or licenses issued by the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives, as well as any other required state, county, municipal, or administrative licenses or registrations including but not limited to any required by the Pennsylvania State Police.

- (3) An FFL shall identify any fictitious name under which the FFL will operate, the street and mailing address for the business, and the business's reasonable hours of operation.
- (4) For any doors and windows which are directly accessible from any public space, such as a street, alley or sidewalk, or from any common area, such as a lobby or shared hallway, an FFL shall install and maintain smash-resistant doors and windows.
- (5) An FFL shall install and maintain a general alarm system which provides glass protection, interior motion sensors, door and access panel contact monitoring, and a panic button.
- (6) An FFL shall install and maintain an internal video surveillance system.
- (7) An FFL shall provide and maintain an operational safety plan demonstrating compliance with all applicable laws and regulations prohibiting the sale of firearms, ammunition, or destructive devices to certain individuals including but limited to those restrictions contained in 18 U.S.C. § 922(b), as amended.
- (8) An FFL shall provide and maintain an operational safety plan demonstrating compliance with all applicable laws and regulations prohibiting the selling, transferring, or otherwise disposing of a firearm without conducting a National Instant Criminal Background Check System (NICS) background check for every transfer of a firearm to a non-licensee unless the transferee qualifies for one of the exceptions listed in 18 U.S.C. § 922(t), as amended.
- (9) An FFL shall provide and maintain an operational safety plan demonstrating compliance with all applicable laws and regulations prohibiting the selling, transferring, or otherwise disposing of a firearm to a person who not the actual buyer or transferee of the subject firearm; is otherwise prohibited by law from receiving or possessing firearms or ammunition; and/or is not a lawful resident of Pennsylvania.
- (10) An FFL shall provide and maintain an operational safety plan to ensure that all required firearms transaction records required by federal and state law are completed for every transfer of a firearm to a non-licensee.
- (11) An FFL shall provide and maintain an operational safety plan to ensure that each missing, lost, or stolen firearm from the FFL's inventory or collection is reported to the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives within 48 hours of discovery of the loss or theft.
- (12) An FFL shall provide and maintain an operational safety plan to ensure compliance with all applicable laws and regulations related to record retention including but not limited to 27 CFR § 478.129, as amended.

Section 6. Nothing in this Ordinance or in Chapter 155 of the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Chapter 155 prior to the adoption of this amendment.

Section 7. Nothing in this Ordinance or in the Code of the Township of Lower Merion, as hereby amended, shall be construed to affect any suit or proceedings in any Court, any rights acquired or liability incurred, any permit issued, or any cause or causes of action existing under the said Code of the Township of Lower Merion prior to the adoption of this amendment.

Section 8. The provisions of this Ordinance are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of this court shall not affect or impair the remaining sections, sentences, clauses, parts or provisions of this ordinance. It is hereby declared to be the intent of the Board that this ordinance would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

Section 9. This Ordinance shall take affect and be in force from and after its approval as required by law.

Approved by the Board of Commissioners of the Township of Lower Merion this _____ day of _____, 20____.

BOARD OF COMMISSIONERS OF THE
TOWNSHIP OF LOWER MERION

Todd M. Sinai, President

ATTEST:

Jody L. Kelley, Secretary